IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7825 of 1989

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BANSHABHAI VADIABHAI BAGUL

Versus

STATE OF GUJARAT

Appearance:

MR JAYANT PATEL for Petitioner

MR ND GOHIL AGP for Respondent No. 1, 3

NOTICE SERVED for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 07/04/2000

ORAL JUDGEMENT

Heard learned advocates.

By order dated 8th December, 1989, this petition was admitted to final hearing and was ordered to be heard

along with Special Civil Application No. 6036/89 and allied matters. Upon perusal of the papers in Special Civil Application No. 6036/89, I find that the said petition was on entirely different subject matter. The said petition was in respect of a dispute between a Mill Company and the Union of India (Western Railway) as regards the delivery of coal. The said petition is rejected on 8th October, 1992. Thus, there being no relevance with the aforesaid Special Civil Application No. 6036/89, this petition is decided on its own merits.

The petitioner is a tribal who had been allotted Government waste land bearing Survey No. 13 admeasuring 3-Hector-2 Are, situated at village Bhapkhal for cultivation on lease for a period of one year. The said lease was extended upto 31st December, 1987. The petitioner thereafter applied for further extension of the lease for cultivation. However, by order dated 4th January, 1989, made by the District Collector the said application was rejected on the ground that the land in question had not been transferred to the Revenue Department. The said order has been communicated to the petitioner on 13th September, 1989. Feeling aggrieved, the petitioner has preferred the present petition.

As it is evident, the land in question was a Government waste land and was allotted to the petitioner on yearly lease for cultivation. However, since the land was not transferred to the Revenue Department, the yearly lease was not extended further. It is specifically averred that inspite of the grant having expired, the petitioner continued in possession of the land in question and continued to cultivate the same till the date of the petition. The specific averments made in the petition are not controverted. It, however, appears that in view of the interim order made on this petition, the petitioner has continued to be in possession of the land in question, and has continued to cultivate the same. In that view of the matter, it should be expedient that the concerned authority reconsiders the question of extending the grant of lease to the petitioner for cultivation. Mr. Gohil has however submitted that pursuant to the impugned order, the possession of the land in question was recovered from the petitioner in the month of January, 1989. The submission is neither supported by an affidavit nor by the documentary evidence.

In the circumstances, it is directed that the concerned authority, the respondent no.2, shall reconsider the petitioner's application for extension of

grant made on 30th May, 1989, and make an order afresh in accordance with law. The petitioner may also be given an opportunity of personal hearing. The aforesaid exercise shall be completed on or before 30th June, 2000. The interim order made on this petition shall continue to operate till 15th August, 2000.

The petition is accordingly disposed of. Rule is discharged. Subject to the above direction, interim relief is vacated. The Registry is directed to send the writ forthwith.

JOSHI